

# State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/05/2009 (Per: PJK)





### Appendix A ... Part 03 of 03

 The 2009 drafting file for LRB-0525

has been transferred to the drafting file for

## **2009 LRB-1924**

 This cover sheet, the final request sheet, and the final version of the 2009 draft were copied on yellow paper, and returned to the original 2005 drafting file.

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU


## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 10/10/2008 (Per: PJK)



### Appendix A ... Part 02 of 02



 The 2007 drafting file for LRB-3161

has been transferred to the drafting file for

**2009 LRB-0525**

☛ This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

☛ The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3161/P2

PJK:hkr

bjk & jld  
r m w h m

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note  
(in 12-3) TODAY

and prohibited provisions  
in motor vehicle liability  
insurance policies

regenerate ↓

1 AN ACT *to repeal* 632.32 (4) (a) (title), 632.32 (4) (a) 2. and 632.32 (4) (a) 3.; *to*  
2 *renumber* 632.32 (2) (c); *to renumber and amend* 632.32 (4) (a) 1., 632.32 (5)  
3 (f), 632.32 (5) (g), 632.32 (5) (h), 632.32 (5) (i) and 632.32 (5) (j); *to amend* 631.43  
4 (3), 632.32 (4) (intro.) and 632.32 (4) (b); and *to create* 632.32 (2) (cm), 632.32  
5 (2) (d), 632.32 (2) (e), 632.32 (2) (f), 632.32 (2) (g), 632.32 (4) (am) and 632.32 (4r)  
6 of the statutes; **relating to:** uninsured and underinsured motorist coverages.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

7 SECTION 1. 631.43 (3) of the statutes is amended to read:  
8 631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to  
9 exclude, limit or ~~reduce~~ restrict coverage under s. 632.32 (5) (b), or (c) ~~or (f) to (j).~~

\*\*\*NOTE: I have amended this subsection in this way because s. 632.32 (5) (b) and (c) authorize limiting and restricting coverage. OK?

Insert 2-1 ✓

1 SECTION 2. 632.32 (2) (c) of the statutes is renumbered 632.32 (2) (h).

2 SECTION 3. 632.32 (2) (cm) of the statutes is created to read:

3 632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance  
4 contract providing at least \$1,000,000 of liability coverage per person or per  
5 occurrence in excess of certain required underlying liability insurance coverage or  
6 a specified amount of self-insured retention.

7 SECTION 4. 632.32 (2) (d) of the statutes is created to read:

8 632.32 (2) (d) "Underinsured motor vehicle" means a motor vehicle to which all  
9 of the following apply:

- 10 1. The motor vehicle is involved in an accident with an insured. ✓ Insert 2-10
- 11 2. A bodily injury liability insurance policy applies to the motor vehicle at the  
12 time of the accident.
- 13 3. The limits under the bodily injury liability insurance policy are less than the  
14 amount needed to fully compensate the insured for his or her damages.

\*\*\*NOTE: I did not define "underinsured motorist" or "uninsured motorist" because those terms are not used in the section.

15 SECTION 5. 632.32 (2) (e) of the statutes is created to read:

16 632.32 (2) (e) "Underinsured motorist coverage" means coverage for the  
17 protection of persons insured under that coverage who are legally entitled to recover  
18 damages for bodily injury, death, sickness, or disease from owners or operators of  
19 underinsured motor vehicles.

20 SECTION 6. 632.32 (2) (f) of the statutes is created to read:

21 632.32 (2) (f) "Uninsured motor vehicle" means a motor vehicle that is involved  
22 in an accident with an insured and with respect to which, at the time of the accident,  
23 a bodily injury liability insurance policy is not in effect and the owner or operator has

Insert 2-22 ✓

not furnished proof of financial responsibility for the future under subch. III of ch. 344. "Uninsured motor vehicle" also includes both of the following motor vehicles involved in an accident with an insured: *Insert 2-22 ✓*

\*\*\*\*NOTE: By "financial responsibility requirements" were you referring to the requirements under ch. 344? I didn't think the reference to "under s. 632.32 (4)" made sense since all motor vehicle liability insurance policies are required to contain the limits in s. 632.32 (4).

1. An insured motor vehicle if before or after the accident the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction.

2. An unidentified motor vehicle.

**SECTION 7.** 632.32 (2) (g) of the statutes is created to read:

632.32 (2) (g) "Uninsured motorist coverage" means coverage for the protection of persons insured under that coverage who are legally entitled to recover damages for bodily injury, death, sickness, or disease from owners or operators of uninsured motor vehicles.

**SECTION 8.** 632.32 (4) (intro.) of the statutes is amended to read:

~~632.32 (4) REQUIRED UNINSURED AND UNDERINSURED MOTORIST AND MEDICAL PAYMENTS COVERAGES. (intro.) Every policy of insurance subject to this section that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall contain therein or supplemental thereto provisions approved by the commissioner for all of the following coverages:~~

**SECTION 9.** 632.32 (4) (a) (title) of the statutes is repealed.

**SECTION 10.** 632.32 (4) (a) 1. of the statutes is renumbered 632.32 (4) (a) and amended to read:

UNDERINSURED MOTORIST

632.32 (4) (a) For the protection of persons injured who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom Uninsured motorist coverage, in limits of at least \$25,000 per person and \$50,000 per accident.

SECTION 11. 632.32 (4) (a) 2. of the statutes is repealed.

SECTION 12. 632.32 (4) (a) 3. of the statutes is repealed.

SECTION 13. 632.32 (4) (am) of the statutes is created to read:

632.32 (4) (am) Underinsured motorist coverage, in limits of at least \$25,000 per person and \$50,000 per accident.

SECTION 14. 632.32 (4) (b) of the statutes is amended to read:

632.32 (4) (b) ~~Medical payments.~~ To Medical payments coverage to indemnify for medical payments or chiropractic payments or both in the amount of at least \$1,000 per person for protection of all persons using the insured motor vehicle from losses resulting from bodily injury or death. The named insured may reject the coverage. If the named insured rejects the coverage, it need not be provided in a subsequent renewal policy issued by the same insurer unless the insured requests it in writing. Under the medical or chiropractic payments coverage, the insurer shall be subrogated to the rights of its insured to the extent of its payments. Coverage written under this paragraph may be excess coverage over any other source of reimbursement to which the insured person has a legal right.

*add → unless waived*

*back this out to ppl all 3 car*

*just need pay*

\*\*\*NOTE: Since this paragraph retains the language regarding subrogation, do you want to keep the subrogation language in par. (a) and add it to par. (am)?

\*\*\*NOTE: Since under this draft all policies must contain underinsured motorist coverage, do you want to repeal sub. (4m), which applies only to policies that do not have underinsured motorist coverage?

SECTION 15. 632.32 (4r) of the statutes is created to read:

21

*Insert 4-20*

✓ (CS)  
MOTORIST  
↑

1 632.32 (4r) REQUIRED WRITTEN OFFERS OF UNINSURED AND UNDERINSURED  
2 MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES. (a) An insurer  
3 writing umbrella or excess liability policies that insure with respect to a motor  
4 vehicle registered or principally garaged in this state against loss resulting from  
5 liability imposed by law for bodily injury or death suffered by a person arising out  
6 of the ownership, maintenance, or use of a motor vehicle shall provide written offers  
7 of uninsured motorist coverage and underinsured motorist coverage, which offers  
8 shall include a brief description of the coverage offered. An insurer is required to  
9 provide the offers required under this subsection only one time with respect to any  
10 policy in the manner provided in par. (b).

11 (b) 1. Each application for an umbrella or excess liability policy issued on or  
12 after the effective date of this subdivision .... [revisor inserts date], shall contain a  
13 written offer of both uninsured motorist coverage and underinsured motorist  
14 coverage.

\*\*\*\*NOTE: Will this be construed to mean that you must get both or neither coverage?

15 2. For umbrella or excess liability policies that are in effect on the effective date  
16 of this subdivision .... [revisor inserts date], the insurer shall provide a written offer  
17 of uninsured motorist coverage to the named insureds under each policy that does  
18 not include uninsured motorist coverage and a written offer of underinsured  
19 motorist coverage to the named insureds under each policy that does not include  
20 underinsured motorist coverage. The insurer shall provide an offer under this  
21 subdivision in conjunction with the notice of the first renewal of the policy occurring  
22 after the effective date of this subdivision .... [revisor inserts date].

✓ a written offer of

## SECTION 15

one or both of the coverages

(c) An applicant or named insureds may reject ~~the coverage~~ offered, but must do so in writing. If the applicant or named insureds reject ~~the coverage~~ offered, the insurer is not required to provide the rejected coverage under a policy that is renewed to the person by that insurer unless an insured under the policy subsequently requests the <sup>rejected</sup> coverage in writing.

(d) No insurer is required to provide uninsured or underinsured motorist coverage in excess of the umbrella or excess liability policy limits.

\*\*\*\*NOTE: Is the above provision necessary? Why would anyone think that the insurer would be required to provide uninsured or underinsured motorist coverage in excess of the policy's liability limits? Or does this mean even if the applicant or named insured asks for it? If so, that should be added.

SECTION 16. 632.32 (5) (f) of the statutes is renumbered 632.32 (6) (d) and amended to read:

632.32 (6) (d) ~~A~~ No policy may provide that, regardless of the number of policies involved, vehicles involved, persons covered, claims made, vehicles or premiums shown on the policy, or premiums paid, the limits for any coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine the limit of insurance coverage available for bodily injury or death suffered by a person in any one accident.

SECTION 17. 632.32 (5) (g) of the statutes is renumbered 632.32 (6) (e) and amended to read:

632.32 (6) (e) ~~A~~ No policy may provide that the maximum amount of uninsured motorist coverage or underinsured motorist coverage available for bodily injury or death suffered by a person who was not using a motor vehicle at the time of an accident is <sup>any</sup> ~~the highest~~ single limit of uninsured motorist coverage or underinsured motorist coverage, whichever is applicable, for any motor vehicle with respect to which the person is insured.

either of the coverages



1           **SECTION 18.** 632.32 (5) (h) <sup>✓</sup> of the statutes is renumbered 632.32 (6) (f) and  
2 amended to read:

3           632.32 (6) (f) ~~A~~ No policy may provide that the maximum amount of medical  
4 payments coverage available for bodily injury or death suffered by a person who was  
5 not using a motor vehicle at the time of an accident is ~~the highest~~ <sup>any</sup> single limit of  
6 medical payments coverage for any motor vehicle with respect to which the person  
7 is insured.

8           **SECTION 19.** 632.32 (5) (i) <sup>✓</sup> of the statutes is renumbered 632.32 (6) (g), and  
9 632.32 (6) (g) (intro.), as renumbered, is amended to read:

10          632.32 (6) (g) (intro.) ~~A~~ No policy may provide that the limits under the policy  
11 for uninsured motorist coverage or underinsured motorist coverage for bodily injury  
12 or death resulting from any one accident shall be reduced by any of the following that  
13 apply:

14          **SECTION 20.** 632.32 (5) (j) <sup>✓</sup> of the statutes is renumbered 632.32 (6) (h), and  
15 632.32 (6) (h) (intro.), as renumbered, is amended to read:

16          632.32 (6) (h) (intro.) ~~A~~ No policy may provide that any coverage under the  
17 policy does not apply to a loss resulting from the use of a motor vehicle that meets  
18 all of the following conditions:

19               \*\*\*\*NOTE: Do you want to simply get rid of the above provisions as permitted  
                  provisions under s. 632.32 (5) or do you want to move them to sub. (6), as I have done, to  
                  make them prohibited provisions? Is there any reason why these provisions could not be  
                  included in an insurance policy if they are not explicitly prohibited?

(END)

Insert 7-18

①-note  
↓

*LPS-run  
please  
spell check*

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3161/P2ins  
PJK:.....

**INSERT A**

Under current law, all motor vehicle liability insurance policies must include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. Current law, while not requiring that motor vehicle liability insurance policies include underinsured motorist coverage, requires insurers to provide written notice of the availability of that coverage to one insured under each policy written after October 1, 1995, that does not include the coverage, as well as to one insured under each motor vehicle liability insurance policy in effect on that date that did not include the coverage. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles. "Underinsured motor vehicle" is not defined in the statutes.

This bill eliminates the requirement to provide notice of the availability of underinsured motorist coverage and requires every motor vehicle liability insurance policy to include the coverage in limits of at least \$25,000 per person and \$50,000 per accident. In addition, the bill defines an underinsured motorist vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages.

Under current law, an uninsured motor vehicle is defined to include "an unidentified motor vehicle involved in a hit-and-run accident." The Wisconsin Supreme Court has held that, under this definition, actual contact is necessary. Consequently, uninsured motorist coverage does not apply if, for example, a motor vehicle is run off the road by another motor vehicle without actual contact between the two vehicles. The bill changes this so that actual contact is not necessary for uninsured motorist coverage to apply. All that is required is that an unidentified motor vehicle be involved in the accident.

Current law specifies a number of provisions that are permissible in a motor vehicle liability insurance policy and a number of provisions that are prohibited in such a policy. The bill makes the following currently permissible provisions prohibited in a motor vehicle liability insurance policy:

\* ~~13~~ Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

\* ~~23~~ Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is any single limit of uninsured or

↓

*Ens A contd*

underinsured motorist coverage<sup>✓</sup> for any vehicle with respect to which the person is insured at the time of the accident.<sup>✓</sup>

\* 3<sup>1</sup> Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is any single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.<sup>✓</sup>

\* 4<sup>1</sup> Providing that the limits under the policy for uninsured or underinsured motorist coverage for bodily injury or death resulting from an accident shall be reduced by amounts paid or payable by or on behalf of a person or organization that is legally responsible for the bodily injury or death; amounts paid or payable under any worker's compensation law; or amounts paid or payable under any disability benefits laws.<sup>✓</sup>

\* 5<sup>1</sup> Providing that any coverage under the policy does not apply to a loss resulting from the use of a motor vehicle that is owned by the named insured or a spouse or relative of the named insured who lives in the named insured's household, that is not described in the policy, and that is not covered under the terms of the policy as a newly acquired or replacement motor vehicle.<sup>✓</sup> (e)

Finally, the bill requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage<sup>✓</sup> whenever application is made for such an umbrella or excess liability policy.<sup>✓</sup> The bill also requires an insurer to make a written offer of uninsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing.<sup>✓</sup>

(END OF INSERT A)

INSERT 1-7

1 SECTION 1. 62.67 of the statutes is amended to read:

2 **62.67 Uninsured motorist coverage; 1st class cities.** A 1st class city shall  
3 provide uninsured motorist motor vehicle liability insurance coverage for motor  
4 vehicles owned by the city and operated by city employees in the course of

*↓*

*Ins 1-7 contd*

1 employment. The coverage required by this section shall have at least the limits  
2 prescribed for uninsured motorist coverage under s. 632.32 (4) (a) 1. ✓

History: 1983 a. 537; Stats. 1983 s. 66.187; 1983 a. 538 s. 97; Stats. 1983 s. 66.189; 1999 a. 150 s. 309; Stats. 1999 s. 62.67.

(END OF INSERT 1-7)

**INSERT 2-1**

3 **SECTION 2.** 632.32 (2) (a) <sup>✓</sup> of the statutes is renumbered 632.32 (2) (at). ✓

4 **SECTION 3.** 632.32 (2) (am) <sup>✓</sup> of the statutes is created to read:

5 632.32 (2) (am) "Medical payments coverage" <sup>✓</sup> means coverage to indemnify for  
6 medical payments or chiropractic payments or both for the protection of all persons  
7 using an insured motor vehicle from losses resulting from bodily injury or death. ✓

\*\*\*\*NOTE: This definition follows the language of the first sentence under current law s. 632.32 (4) (b). <sup>✓</sup> Is it OK, or would you prefer to retain any of this language in sub. (4) <sup>✓</sup> and not include it here in the definition?

(END OF INSERT 2-1)

**INSERT 2-10**

8 <sup>NO #</sup> a person who has underinsured motorist coverage <sup>NO #</sup>

(END OF INSERT 2-10)

**INSERT 2-22**

9 <sup>NO #</sup> a person who has uninsured motorist coverage <sup>✓</sup> <sup>NO #</sup>

(END OF INSERT 2-22)

**INSERT 4-20** *1003*

10 **SECTION 4.** 632.32 (4) (title) <sup>✓</sup> of the statutes is amended to read:

11 632.32 (4) (title) **REQUIRED UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND** ✓  
12 **MEDICAL PAYMENTS COVERAGES.**

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162.

✓

Ans 4-20 contd 2073

1           **SECTION 5.** 632.32 (4) (intro.)<sup>✓</sup> of the statutes is renumbered 632.32 (4) (a)  
2 (intro.) and amended to read:

3           632.32 (4) (a) (intro.) Every policy of insurance subject to this section that  
4 insures with respect to any motor vehicle registered or principally garaged in this  
5 state against loss resulting from liability imposed by law for bodily injury or death  
6 suffered by any person arising out of the ownership, maintenance or use of a motor  
7 vehicle shall contain therein or supplemental thereto provisions approved by the  
8 commissioner for all of the following coverages:<sup>✓</sup>

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162.

9           **SECTION 6.** 632.32 (4) (a) (title)<sup>✓</sup> of the statutes is repealed.

10          **SECTION 7.** 632.32 (4) (a) 1.<sup>✓</sup> of the statutes is amended to read:

11          632.32 (4) (a) 1. ~~For the protection of persons injured who are legally entitled~~  
12 ~~to recover damages from owners or operators of uninsured motor vehicles because~~  
13 ~~of bodily injury, sickness or disease, including death resulting therefrom~~ Uninsured  
14 motorist coverage,<sup>✓</sup> in limits of at least \$25,000 per person and \$50,000 per accident.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162.

15          **SECTION 8.** 632.32 (4) (a) 2.<sup>✓</sup> of the statutes is repealed.

16          **SECTION 9.** 632.32 (4) (a) 2m.<sup>✓</sup> of the statutes is created to read:

17          632.32 (4) (a) 2m. Underinsured motorist coverage, in limits of at least \$25,000<sup>✓</sup>  
18 per person and \$50,000<sup>✓</sup> per accident.

19          **SECTION 10.** 632.32 (4) (a) 3.<sup>✓</sup> of the statutes is renumbered 632.32 (4) (c) and  
20 amended to read:

21          632.32 (4) (c) Insurers Unless an insurer waives the right to subrogation,  
22 insurers making payment under the ~~uninsured motorists' coverage~~ any of the



Ins 4-20 contd 303

1 coverages under this subsection shall, to the extent of the payment, be subrogated  
2 to the rights of their insureds.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162.

3 **SECTION 11.** 632.32 (4) (b) (title) of the statutes is repealed.

4 **SECTION 12.** 632.32 (4) (b) of the statutes is renumbered 632.32 (4) (a) 3m. and  
5 amended to read:

6 632.32 (4) (a) 3m. ~~To indemnify for medical payments or chiropractic payments~~  
7 ~~or both Medical payments coverage in the amount of at least \$1,000 per person for~~  
8 ~~protection of all persons using the insured motor vehicle from losses resulting from~~  
9 ~~bodily injury or death. The named insured may reject the coverage. If the named~~  
10 ~~insured rejects the coverage, it need not be provided in a subsequent renewal policy~~  
11 ~~issued by the same insurer unless the insured requests it in writing. Under the~~  
12 ~~medical or chiropractic payments coverage, the insurer shall be subrogated to the~~  
13 ~~rights of its insured to the extent of its payments. Coverage written under this~~  
14 ~~paragraph subdivision~~ may be excess coverage over any other source of  
15 reimbursement to which the insured person has a legal right.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162.

16 **SECTION 13.** 632.32 (4) (bc) of the statutes is created to read:

17 632.32 (4) (bc) Notwithstanding par. (a) 3m., the named insured may reject  
18 medical payments coverage. If the named insured rejects the coverage, the coverage  
19 need not be provided in a subsequent renewal policy issued by the same insurer  
20 unless the insured requests it in writing.

21 **SECTION 14.** 632.32 (4m) of the statutes is repealed.

(END OF INSERT 4-20)

INSERT 7-18

↓

Ens 7-18

**SECTION 15. Initial applicability.**

(1) The treatment of sections 62.67, 631.43 (3), and 632.32 (2) (a), (am), (c), (cm), (d), (e), (f), and (g), (4) (title), (intro.), (a) (title), 1., 2., 2m., and 3., (bc), (4m), and (5) (f), (g), (h), (i), and (j) of the statutes, the repeal of section 632.32 (4) (b) (title) of the statutes, and the renumbering and amendment of section 632.32 (4) (b) of the statutes first apply to motor vehicle insurance policies issued or renewed on the effective date of this subsection.

**SECTION 16. Effective date.**

(1) This act takes effect on the first day of the 5th month beginning after publication.

(END OF INSERT 7-18)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3161/P2dn

PJK:bjk:rs

date

jld

The initial applicability provision applies to all sections treated in the bill except s. 632.32 (4r), because it contains its own in-text applicability.

In s. 632.32 (5) (g) and (h) (which are renumbered to s. 632.32 (6) (e) and (f)), I changed "highest single limit" to "any single limit" so that an insurer could not, for example, provide that the maximum amount is the *lowest* single limit, either.

I did not mention any specific cases in the analysis, because there are many relevant ones. If you would like a particular case mentioned, however, let me know. Also, if you believe that anything I have stated in the analysis is not entirely accurate, please feel free to suggest modifications.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3161/P2dn  
PJK:jld:rs

December 7, 2007

The initial applicability provision applies to all sections treated in the bill except s. 632.32 (4r), because it contains its own in-text applicability.

In s. 632.32 (5) (g) and (h) (which are renumbered to s. 632.32 (6) (e) and (f)), I changed "highest single limit" to "any single limit" so that an insurer could not, for example, provide that the maximum amount is the *lowest* single limit, either.

I did not mention any specific cases in the analysis, because there are many relevant ones. If you would like a particular case mentioned, however, let me know. Also, if you believe that anything I have stated in the analysis is not entirely accurate, please feel free to suggest modifications.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

3161

**Kahler, Pam**

---

**From:** Dicks, Helen  
**Sent:** Tuesday, February 19, 2008 3:31 PM  
**To:** Kahler, Pam  
**Subject:** FW: Automobile Statute without manatory UIM

Once more! Thanks

Helen Marks Dicks  
 Office of Senator Judy Robson  
 608 266-2253

---

**From:** jstrohl@pffw.org [mailto:jstrohl@pffw.org]  
**Sent:** Tuesday, February 05, 2008 12:27 PM  
**To:** Dicks, Helen  
**Subject:** Fw: Automobile Statute without manatory UIM

Helen,

After talking to some legislators about the auto insurance package we have concluded that it might be best to drop for this session the "mandatory underinsured (UIM) motorist coverage". Below is who we believe that can be accomplished.

Could you have the bill redrafted to accomplish this? Thanks

Joe

On the actual draft from the drafting attorney, the words "underinsured motorist" would be eliminated, page 5, line 18. (Section 11)  
 Then on page 6, line 10-12 would be eliminated. (Section 16)  
 Then Section 21, page 7, line 12, that would be eliminated, which would restore §632.32(4m).  
 Joe



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3161/P2

PJK:bjk&jld:rs

stay  
rm is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION ✓

Inserts

SOON  
(in 2-21)  
SA ✓  
X-ref ✓

Regenerate ✓

under umbrella or excess  
liability insurance  
policies defining uninsured  
and underinsured  
motor vehicles

1 AN ACT *to repeal* 632.32 (4) (a) (title), 632.32 (4) (a) 2., 632.32 (4) (b) (title) and  
2 632.32 (4m); *to renumber* 632.32 (2) (a) and 632.32 (2) (c); *to renumber and*  
3 *amend* 632.32 (4) (intro.), 632.32 (4) (a) 3., 632.32 (4) (b), 632.32 (5) (f), 632.32  
4 (5) (g), 632.32 (5) (h), 632.32 (5) (i) and 632.32 (5) (j); *to amend* 62.67, 631.43  
5 (3), 632.32 (4) (title) and 632.32 (4) (a) 1.; and *to create* 632.32 (2) (am), 632.32  
6 (2) (cm), 632.32 (2) (d), 632.32 (2) (e), 632.32 (2) (f), 632.32 (2) (g), 632.32 (4) (a)  
7 2m., 632.32 (4) (bc) and 632.32 (4r) of the statutes; **relating to:** uninsured and  
8 underinsured motorist coverages and prohibited provisions in motor vehicle  
9 liability insurance policies.

***Analysis by the Legislative Reference Bureau***

Under current law, all motor vehicle liability insurance policies must include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. Current

law, while not requiring that motor vehicle liability insurance policies include underinsured motorist coverage, requires insurers to provide written notice of the availability of that coverage to one insured under each policy written after October 1, 1995, that does not include the coverage, as well as to one insured under each motor vehicle liability insurance policy in effect on that date that did not include the coverage. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles. "Underinsured motor vehicle" is not defined in the statutes.

W041 This bill eliminates the requirement to provide notice of the availability of underinsured motorist coverage and requires every motor vehicle liability insurance policy to include the coverage in limits of at least \$25,000 per person and \$50,000 per accident. In addition, the bill defines an underinsured motorist vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages.

Under current law, an uninsured motor vehicle is defined to include "an unidentified motor vehicle involved in a hit-and-run accident." The Wisconsin Supreme Court has held that, under this definition, actual contact is necessary. Consequently, uninsured motorist coverage does not apply if, for example, a motor vehicle is run off the road by another motor vehicle without actual contact between the two vehicles. The bill changes this so that actual contact is not necessary for uninsured motorist coverage to apply. All that is required is that an unidentified motor vehicle be involved in the accident.

Current law specifies a number of provisions that are permissible in a motor vehicle liability insurance policy and a number of provisions that are prohibited in such a policy. The bill makes the following currently permissible provisions prohibited in a motor vehicle liability insurance policy:

1. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

2. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is any single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.

3. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is any single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.

4. Providing that the limits under the policy for uninsured or underinsured motorist coverage for bodily injury or death resulting from an accident shall be reduced by amounts paid or payable by or on behalf of a person or organization that

is legally responsible for the bodily injury or death; amounts paid or payable under any worker's compensation law; or amounts paid or payable under any disability benefits laws.

5. Providing that any coverage under the policy does not apply to a loss resulting from the use of a motor vehicle that is owned by the named insured or a spouse or relative of the named insured who lives in the named insured's household, that is not described in the policy, and that is not covered under the terms of the policy as a newly acquired or replacement motor vehicle.

→ Finally, the bill requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. The bill also requires an insurer to make a written offer of uninsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. 62.67 of the statutes is amended to read:

2           **62.67 Uninsured motorist coverage; 1st class cities.** A 1st class city shall  
3 provide uninsured motorist motor vehicle liability insurance coverage for motor  
4 vehicles owned by the city and operated by city employees in the course of  
5 employment. The coverage required by this section shall have at least the limits  
6 prescribed for uninsured motorist coverage under s. 632.32 (4) (a) 1.

7           SECTION 2. 631.43 (3) of the statutes is amended to read:

8           631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to  
9 ~~exclude, limit or reduce~~ restrict coverage under s. 632.32 (5) (b), or (c) ~~or (f) to (j)~~.

10          SECTION 3. 632.32 (2) (a) of the statutes is renumbered 632.32 (2) (at).

11          SECTION 4. 632.32 (2) (am) of the statutes is created to read:

1           632.32 (2) (am) "Medical payments coverage" means coverage to indemnify for  
2           medical payments or chiropractic payments or both for the protection of all persons  
3           using an insured motor vehicle from losses resulting from bodily injury or death.

>           \*\*\*\*NOTE: This definition follows the language of the first sentence under current  
            law s. 632.32 (4) (b). Is it OK, or would you prefer to retain any of this language in sub.  
            (4) and not include it here in the definition?

4           SECTION 5. 632.32 (2) (c) of the statutes is renumbered 632.32 (2) (h).

5           SECTION 6. 632.32 (2) (cm) of the statutes is created to read:

6           632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance  
7           contract providing at least \$1,000,000 of liability coverage per person or per  
8           occurrence in excess of certain required underlying liability insurance coverage or  
9           a specified amount of self-insured retention.

10          SECTION 7. 632.32 (2) (d) of the statutes is created to read:

11          632.32 (2) (d) "Underinsured motor vehicle" means a motor vehicle to which all  
12          of the following apply:

13           1. The motor vehicle is involved in an accident with a person who has  
14           underinsured motorist coverage.

15           2. A bodily injury liability insurance policy applies to the motor vehicle at the  
16           time of the accident.

17           3. The limits under the bodily injury liability insurance policy are less than the  
18           amount needed to fully compensate the insured for his or her damages.

19          SECTION 8. 632.32 (2) (e) of the statutes is created to read:

20          632.32 (2) (e) "Underinsured motorist coverage" means coverage for the  
21          protection of persons insured under that coverage who are legally entitled to recover  
22          damages for bodily injury, death, sickness, or disease from owners or operators of  
23          underinsured motor vehicles.

✓  
1       **SECTION 9.** 632.32 (2) (f) of the statutes is created to read:

2       632.32 (2) (f) "Uninsured motor vehicle" means a motor vehicle that is involved  
3       in an accident with a person who has uninsured motorist coverage and with respect  
4       to which, at the time of the accident, a bodily injury liability insurance policy is not  
5       in effect and the owner or operator has not furnished proof of financial responsibility  
6       for the future under subch. III of ch. 344. "Uninsured motor vehicle" also includes  
7       both of the following motor vehicles involved in an accident with a person who has  
8       uninsured motorist coverage:

9       1. An insured motor vehicle if before or after the accident the liability insurer  
10      of the motor vehicle is declared insolvent by a court of competent jurisdiction.

11      2. An unidentified motor vehicle.

✓  
12      **SECTION 10.** 632.32 (2) (g) of the statutes is created to read:

13      632.32 (2) (g) "Uninsured motorist coverage" means coverage for the protection  
14      of persons insured under that coverage who are legally entitled to recover damages  
15      for bodily injury, death, sickness, or disease from owners or operators of uninsured  
16      motor vehicles.

17      **SECTION 11.** 632.32 (4) (title) of the statutes is amended to read:

18      632.32 (4) (title) REQUIRED UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND  
19      MEDICAL PAYMENTS COVERAGES.

20      **SECTION 12.** 632.32 (4) (intro.) of the statutes is renumbered 632.32 (4) (a)  
21      (intro.) and amended to read:

22      632.32 (4) (a) (intro.) Every policy of insurance subject to this section that  
23      insures with respect to any motor vehicle registered or principally garaged in this  
24      state against loss resulting from liability imposed by law for bodily injury or death  
25      suffered by any person arising out of the ownership, maintenance or use of a motor

1 vehicle shall contain therein or supplemental thereto provisions approved by the  
2 commissioner for all of the following coverages:

3 **SECTION 13.** 632.32 (4) (a) (title) of the statutes is repealed.

4 **SECTION 14.** 632.32 (4) (a) 1. of the statutes is amended to read:

5 632.32 (4) (a) 1. ~~For the protection of persons injured who are legally entitled~~  
6 ~~to recover damages from owners or operators of uninsured motor vehicles because~~  
7 ~~of bodily injury, sickness or disease, including death resulting therefrom~~ Uninsured  
8 motorist coverage, in limits of at least \$25,000 per person and \$50,000 per accident.

9 **SECTION 15.** 632.32 (4) (a) 2. of the statutes is repealed.

10 **SECTION 16.** 632.32 (4) (a) 2m. of the statutes is created to read:

11 632.32 (4) (a) 2m. Underinsured motorist coverage, in limits of at least \$25,000  
12 per person and \$50,000 per accident.

13 **SECTION 17.** 632.32 (4) (a) 3. of the statutes is renumbered 632.32 (4) (c) and  
14 amended to read:

15 632.32 (4) (c) Insurers Unless an insurer waives the right to subrogation,  
16 insurers making payment under the uninsured motorists' coverage any of the  
17 coverages under this subsection shall, to the extent of the payment, be subrogated  
18 to the rights of their insureds.

19 **SECTION 18.** 632.32 (4) (b) (title) of the statutes is repealed.

20 **SECTION 19.** 632.32 (4) (b) of the statutes is renumbered 632.32 (4) (a) ~~3m.~~ <sup>2m.</sup> and  
21 amended to read:

22 632.32 (4) (a) ~~3m.~~ <sup>2m.</sup> To indemnify for medical payments or chiropractic payments  
23 ~~or both~~ Medical payments coverage in the amount of at least \$1,000 per person for  
24 protection of all persons using the insured motor vehicle from losses resulting from  
25 bodily injury or death. ~~The named insured may reject the coverage. If the named~~



insured rejects the coverage, it need not be provided in a subsequent renewal policy issued by the same insurer unless the insured requests it in writing. Under the medical or chiropractic payments coverage, the insurer shall be subrogated to the rights of its insured to the extent of its payments. Coverage written under this paragraph subdivision may be excess coverage over any other source of reimbursement to which the insured person has a legal right.

SECTION 20. 632.32 (4) (bc) of the statutes is created to read:

632.32 (4) (bc) Notwithstanding par. (a) ~~3m~~, the named insured may reject medical payments coverage. If the named insured rejects the coverage, the coverage need not be provided in a subsequent renewal policy issued by the same insurer unless the insured requests it in writing.

SECTION 21. 632.32 (4m) of the statutes is repealed.

SECTION 22. 632.32 (4r) of the statutes is created to read:

632.32 (4r) REQUIRED WRITTEN OFFERS OF UNINSURED MOTORIST AND UNDERINSURED MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES. (a) An insurer writing umbrella or excess liability policies that insure with respect to a motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by a person arising out of the ownership, maintenance, or use of a motor vehicle shall provide written offers of uninsured motorist coverage and underinsured motorist coverage, which offers shall include a brief description of the coverage offered. An insurer is required to provide the offers required under this subsection only one time with respect to any policy in the manner provided in par. (b).

(b) 1. Each application for an umbrella or excess liability policy issued on or after the effective date of this subdivision .... [revisor inserts date], shall contain a

1 written offer of uninsured motorist coverage and a written offer of underinsured  
2 motorist coverage.

3 2. For umbrella or excess liability policies that are in effect on the effective date  
4 of this subdivision .... [revisor inserts date], the insurer shall provide a written offer  
5 of uninsured motorist coverage to the named insureds under each policy that does  
6 not include uninsured motorist coverage and a written offer of underinsured  
7 motorist coverage to the named insureds under each policy that does not include  
8 underinsured motorist coverage. The insurer shall provide an offer under this  
9 subdivision in conjunction with the notice of the first renewal of the policy occurring  
10 after the effective date of this subdivision .... [revisor inserts date].

11 (c) An applicant or named insureds may reject one or both of the coverages  
12 offered, but must do so in writing. If the applicant or named insureds reject either  
13 of the coverages offered, the insurer is not required to provide the rejected coverage  
14 under a policy that is renewed to the person by that insurer unless an insured under  
15 the policy subsequently requests the rejected coverage in writing.

16 **SECTION 23.** 632.32 (5) (f) of the statutes is renumbered 632.32 (6) (d) and  
17 amended to read:

18 632.32 (6) (d) ~~-A-~~ No policy may provide that, regardless of the number of  
19 policies involved, vehicles involved, persons covered, claims made, vehicles or  
20 premiums shown on the policy, or premiums paid, the limits for any coverage under  
21 the policy may not be added to the limits for similar coverage applying to other motor  
22 vehicles to determine the limit of insurance coverage available for bodily injury or  
23 death suffered by a person in any one accident.

24 **SECTION 24.** 632.32 (5) (g) of the statutes is renumbered 632.32 (6) (e) and  
25 amended to read:

1           632.32 (6) (e) ~~A~~ No policy may provide that the maximum amount of uninsured  
2           motorist coverage or underinsured motorist coverage available for bodily injury or  
3           death suffered by a person who was not using a motor vehicle at the time of an  
4           accident is ~~the highest~~ any single limit of uninsured motorist coverage or  
5           underinsured motorist coverage, whichever is applicable, for any motor vehicle with  
6           respect to which the person is insured.

7           **SECTION 25.** 632.32 (5) (h) of the statutes is renumbered 632.32 (6) (f) and  
8           amended to read:

9           632.32 (6) (f) ~~A~~ No policy may provide that the maximum amount of medical  
10          payments coverage available for bodily injury or death suffered by a person who was  
11          not using a motor vehicle at the time of an accident is ~~the highest~~ any single limit of  
12          medical payments coverage for any motor vehicle with respect to which the person  
13          is insured.

14          **SECTION 26.** 632.32 (5) (i) of the statutes is renumbered 632.32 (6) (g), and  
15          632.32 (6) (g) (intro.), as renumbered, is amended to read:

16          632.32 (6) (g) (intro.) ~~A~~ No policy may provide that the limits under the policy  
17          for uninsured motorist coverage or underinsured motorist coverage for bodily injury  
18          or death resulting from any one accident shall be reduced by any of the following that  
19          apply:

20          **SECTION 27.** 632.32 (5) (j) of the statutes is renumbered 632.32 (6) (h), and  
21          632.32 (6) (h) (intro.), as renumbered, is amended to read:

22          632.32 (6) (h) (intro.) ~~A~~ No policy may provide that any coverage under the  
23          policy does not apply to a loss resulting from the use of a motor vehicle that meets  
24          all of the following conditions:

25          **SECTION 28. Initial applicability.**

(title)

and

(1) The treatment of sections 62.67, 631.43 (3), and 632.32 (2) (a), (am), (c), (cm), (d), (e), (f), and (g), (4) (title), (intro.), (a) (title), 1., 2., 2m., and 3., (bc), (4m), and (5) (f), (g), (h), (i), and (j) of the statutes, the repeal of section 632.32 (4) (b) (title) of the statutes, and the renumbering and amendment of section 632.32 (4) (b) of the statutes first apply to motor vehicle insurance policies issued or renewed on the effective date of this subsection.

**SECTION 29. Effective date.**

(1) This act takes effect on the first day of the 5th month beginning after publication.

(END)

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3161/P3ins

PJK:.....

ljk

**INSERT A**

4 Finally, the bill defines "medical payments coverage," "underinsured motorist coverage," and "uninsured motorist coverage" as described in current law but in a format that is more consistent with current statutory format. ✓ The bill also restructures the section of the statutes that describes the mandatory uninsured motorist and medical payments coverages to be more consistent with current statutory format. ✓

(END OF INSERT A)

**INSERT 3-9**

- X
- 1       **SECTION 1.** 632.32 (title) of the statutes is amended to read:
- 2       **632.32 (title) ~~Provisions of motor~~ Motor vehicle insurance policies**
- 3       **policy provisions and coverages.**

**History:** 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162.

(END OF INSERT 3-9)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3161/P3  
PJK:hjk&jld:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1     **AN ACT** *to repeal* 632.32 (4) (a) (title), 632.32 (4) (a) 2. and 632.32 (4) (b) (title);  
2         *to renumber* 632.32 (2) (a) and 632.32 (2) (c); *to renumber and amend* 632.32  
3         (4) (intro.), 632.32 (4) (a) 3., 632.32 (4) (b), 632.32 (5) (f), 632.32 (5) (g), 632.32  
4         (5) (h), 632.32 (5) (i) and 632.32 (5) (j); *to amend* 62.67, 631.43 (3), 632.32 (title)  
5         and 632.32 (4) (a) 1.; and *to create* 632.32 (2) (am), 632.32 (2) (cm), 632.32 (2)  
6         (d), 632.32 (2) (e), 632.32 (2) (f), 632.32 (2) (g), 632.32 (4) (bc) and 632.32 (4r) of  
7         the statutes; **relating to:** uninsured and underinsured motorist coverages  
8         under umbrella or excess liability insurance policies, defining uninsured and  
9         under insured motor vehicles, and prohibited provisions in motor vehicle  
10        liability insurance policies.

---

***Analysis by the Legislative Reference Bureau***

Under current law, all motor vehicle liability insurance policies must include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services

provided to persons who are injured while using the insured motor vehicle. Current law, while not requiring that motor vehicle liability insurance policies include underinsured motorist coverage, requires insurers to provide written notice of the availability of that coverage to one insured under each policy written after October 1, 1995, that does not include the coverage, as well as to one insured under each motor vehicle liability insurance policy in effect on that date that did not include the coverage. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles. "Underinsured motor vehicle" is not defined in the statutes. This bill defines an underinsured motorist vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages.

Under current law, an uninsured motor vehicle is defined to include "an unidentified motor vehicle involved in a hit-and-run accident." The Wisconsin Supreme Court has held that, under this definition, actual contact is necessary. Consequently, uninsured motorist coverage does not apply if, for example, a motor vehicle is run off the road by another motor vehicle without actual contact between the two vehicles. The bill changes this so that actual contact is not necessary for uninsured motorist coverage to apply. All that is required is that an unidentified motor vehicle be involved in the accident.

Current law specifies a number of provisions that are permissible in a motor vehicle liability insurance policy and a number of provisions that are prohibited in such a policy. The bill makes the following currently permissible provisions prohibited in a motor vehicle liability insurance policy:

1. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

2. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is any single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.

3. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is any single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.

4. Providing that the limits under the policy for uninsured or underinsured motorist coverage for bodily injury or death resulting from an accident shall be reduced by amounts paid or payable by or on behalf of a person or organization that is legally responsible for the bodily injury or death; amounts paid or payable under any worker's compensation law; or amounts paid or payable under any disability benefits laws.

5. Providing that any coverage under the policy does not apply to a loss resulting from the use of a motor vehicle that is owned by the named insured or a spouse or relative of the named insured who lives in the named insured's household, that is not described in the policy, and that is not covered under the terms of the policy as a newly acquired or replacement motor vehicle.

The bill requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. The bill also requires an insurer to make a written offer of uninsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing.

Finally, the bill defines "medical payments coverage," "underinsured motorist coverage," and "uninsured motorist coverage" as described in current law but in a format that is more consistent with current statutory format. The bill also restructures the section of the statutes that describes the mandatory uninsured motorist and medical payments coverages to be more consistent with current statutory format.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 62.67 of the statutes is amended to read:

2           **62.67 Uninsured motorist coverage; 1st class cities.** A 1st class city shall  
3 provide uninsured motorist motor vehicle liability insurance coverage for motor  
4 vehicles owned by the city and operated by city employees in the course of  
5 employment. The coverage required by this section shall have at least the limits  
6 prescribed for uninsured motorist coverage under s. 632.32 (4) (a) 1.

7           **SECTION 2.** 631.43 (3) of the statutes is amended to read:

8           **631.43 (3) EXCEPTION.** Subsection (1) does not affect the rights of insurers to  
9 ~~exclude, limit or reduce~~ restrict coverage under s. 632.32 (5) (b), or (c) ~~or (f) to (j)~~.

10           **SECTION 3.** 632.32 (title) of the statutes is amended to read:



1           **632.32 (title) ~~Provisions of motor~~ Motor vehicle insurance policies**  
2 **policy provisions and coverages.**

3           **SECTION 4.** 632.32 (2) (a) of the statutes is renumbered 632.32 (2) (at).

4           **SECTION 5.** 632.32 (2) (am) of the statutes is created to read:

5           632.32 (2) (am) "Medical payments coverage" means coverage to indemnify for  
6 medical payments or chiropractic payments or both for the protection of all persons  
7 using an insured motor vehicle from losses resulting from bodily injury or death.

8           **SECTION 6.** 632.32 (2) (c) of the statutes is renumbered 632.32 (2) (h).

9           **SECTION 7.** 632.32 (2) (cm) of the statutes is created to read:

10          632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance  
11 contract providing at least \$1,000,000 of liability coverage per person or per  
12 occurrence in excess of certain required underlying liability insurance coverage or  
13 a specified amount of self-insured retention.

14          **SECTION 8.** 632.32 (2) (d) of the statutes is created to read:

15          632.32 (2) (d) "Underinsured motor vehicle" means a motor vehicle to which all  
16 of the following apply:

17           1. The motor vehicle is involved in an accident with a person who has  
18 underinsured motorist coverage.

19           2. A bodily injury liability insurance policy applies to the motor vehicle at the  
20 time of the accident.

21           3. The limits under the bodily injury liability insurance policy are less than the  
22 amount needed to fully compensate the insured for his or her damages.

23          **SECTION 9.** 632.32 (2) (e) of the statutes is created to read:

24          632.32 (2) (e) "Underinsured motorist coverage" means coverage for the  
25 protection of persons insured under that coverage who are legally entitled to recover

1 damages for bodily injury, death, sickness, or disease from owners or operators of  
2 underinsured motor vehicles.

3 **SECTION 10.** 632.32 (2) (f) of the statutes is created to read:

4 632.32 (2) (f) "Uninsured motor vehicle" means a motor vehicle that is involved  
5 in an accident with a person who has uninsured motorist coverage and with respect  
6 to which, at the time of the accident, a bodily injury liability insurance policy is not  
7 in effect and the owner or operator has not furnished proof of financial responsibility  
8 for the future under subch. III of ch. 344. "Uninsured motor vehicle" also includes  
9 both of the following motor vehicles involved in an accident with a person who has  
10 uninsured motorist coverage:

11 1. An insured motor vehicle if before or after the accident the liability insurer  
12 of the motor vehicle is declared insolvent by a court of competent jurisdiction.

13 2. An unidentified motor vehicle.

14 **SECTION 11.** 632.32 (2) (g) of the statutes is created to read:

15 632.32 (2) (g) "Uninsured motorist coverage" means coverage for the protection  
16 of persons insured under that coverage who are legally entitled to recover damages  
17 for bodily injury, death, sickness, or disease from owners or operators of uninsured  
18 motor vehicles.

19 **SECTION 12.** 632.32 (4) (intro.) of the statutes is renumbered 632.32 (4) (a)  
20 (intro.) and amended to read:

21 632.32 (4) (a) (intro.) Every policy of insurance subject to this section that  
22 insures with respect to any motor vehicle registered or principally garaged in this  
23 state against loss resulting from liability imposed by law for bodily injury or death  
24 suffered by any person arising out of the ownership, maintenance or use of a motor

1 vehicle shall contain therein or supplemental thereto provisions approved by the  
2 commissioner for all of the following coverages:

3 **SECTION 13.** 632.32 (4) (a) (title) of the statutes is repealed.

4 **SECTION 14.** 632.32 (4) (a) 1. of the statutes is amended to read:

5 632.32 (4) (a) 1. ~~For the protection of persons injured who are legally entitled~~  
6 ~~to recover damages from owners or operators of uninsured motor vehicles because~~  
7 ~~of bodily injury, sickness or disease, including death resulting therefrom~~ Uninsured  
8 motorist coverage, in limits of at least \$25,000 per person and \$50,000 per accident.

9 **SECTION 15.** 632.32 (4) (a) 2. of the statutes is repealed.

10 **SECTION 16.** 632.32 (4) (a) 3. of the statutes is renumbered 632.32 (4) (c) and  
11 amended to read:

12 632.32 (4) (c) ~~Insurers~~ Unless an insurer waives the right to subrogation,  
13 insurers making payment under ~~the uninsured motorists' coverage~~ any of the  
14 coverages under this subsection shall, to the extent of the payment, be subrogated  
15 to the rights of their insureds.

16 **SECTION 17.** 632.32 (4) (b) (title) of the statutes is repealed.

17 **SECTION 18.** 632.32 (4) (b) of the statutes is renumbered 632.32 (4) (a) 2m. and  
18 amended to read:

19 632.32 (4) (a) 2m. ~~To indemnify for medical payments or chiropractic payments~~  
20 ~~or both~~ Medical payments coverage in the amount of at least \$1,000 per person ~~for~~  
21 ~~protection of all persons using the insured motor vehicle from losses resulting from~~  
22 ~~bodily injury or death. The named insured may reject the coverage. If the named~~  
23 ~~insured rejects the coverage, it need not be provided in a subsequent renewal policy~~  
24 ~~issued by the same insurer unless the insured requests it in writing. Under the~~  
25 ~~medical or chiropractic payments coverage, the insurer shall be subrogated to the~~

1 ~~rights of its insured to the extent of its payments.~~ Coverage written under this  
2 ~~paragraph subdivision~~ may be excess coverage over any other source of  
3 reimbursement to which the insured person has a legal right.

4 **SECTION 19.** 632.32 (4) (bc) of the statutes is created to read:

5 632.32 (4) (bc) Notwithstanding par. (a) 2m., the named insured may reject  
6 medical payments coverage. If the named insured rejects the coverage, the coverage  
7 need not be provided in a subsequent renewal policy issued by the same insurer  
8 unless the insured requests it in writing.

9 **SECTION 20.** 632.32 (4r) of the statutes is created to read:

10 632.32 (4r) REQUIRED WRITTEN OFFERS OF UNINSURED MOTORIST AND  
11 UNDERINSURED MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES. (a)  
12 An insurer writing umbrella or excess liability policies that insure with respect to a  
13 motor vehicle registered or principally garaged in this state against loss resulting  
14 from liability imposed by law for bodily injury or death suffered by a person arising  
15 out of the ownership, maintenance, or use of a motor vehicle shall provide written  
16 offers of uninsured motorist coverage and underinsured motorist coverage, which  
17 offers shall include a brief description of the coverage offered. An insurer is required  
18 to provide the offers required under this subsection only one time with respect to any  
19 policy in the manner provided in par. (b).

20 (b) 1. Each application for an umbrella or excess liability policy issued on or  
21 after the effective date of this subdivision .... [revisor inserts date], shall contain a  
22 written offer of uninsured motorist coverage and a written offer of underinsured  
23 motorist coverage.

24 2. For umbrella or excess liability policies that are in effect on the effective date  
25 of this subdivision .... [revisor inserts date], the insurer shall provide a written offer

1 of uninsured motorist coverage to the named insureds under each policy that does  
2 not include uninsured motorist coverage and a written offer of underinsured  
3 motorist coverage to the named insureds under each policy that does not include  
4 underinsured motorist coverage. The insurer shall provide an offer under this  
5 subdivision in conjunction with the notice of the first renewal of the policy occurring  
6 after the effective date of this subdivision .... [revisor inserts date].

7 (c) An applicant or named insureds may reject one or both of the coverages  
8 offered, but must do so in writing. If the applicant or named insureds reject either  
9 of the coverages offered, the insurer is not required to provide the rejected coverage  
10 under a policy that is renewed to the person by that insurer unless an insured under  
11 the policy subsequently requests the rejected coverage in writing.

12 **SECTION 21.** 632.32 (5) (f) of the statutes is renumbered 632.32 (6) (d) and  
13 amended to read:

14 632.32 (6) (d) ~~A~~ No policy may provide that, regardless of the number of  
15 policies involved, vehicles involved, persons covered, claims made, vehicles or  
16 premiums shown on the policy, or premiums paid, the limits for any coverage under  
17 the policy may not be added to the limits for similar coverage applying to other motor  
18 vehicles to determine the limit of insurance coverage available for bodily injury or  
19 death suffered by a person in any one accident.

20 **SECTION 22.** 632.32 (5) (g) of the statutes is renumbered 632.32 (6) (e) and  
21 amended to read:

22 632.32 (6) (e) ~~A~~ No policy may provide that the maximum amount of uninsured  
23 motorist coverage or underinsured motorist coverage available for bodily injury or  
24 death suffered by a person who was not using a motor vehicle at the time of an  
25 accident is ~~the highest~~ any single limit of uninsured motorist coverage or

1 underinsured motorist coverage, whichever is applicable, for any motor vehicle with  
2 respect to which the person is insured.

3 **SECTION 23.** 632.32 (5) (h) of the statutes is renumbered 632.32 (6) (f) and  
4 amended to read:

5 632.32 (6) (f) ~~A~~ No policy may provide that the maximum amount of medical  
6 payments coverage available for bodily injury or death suffered by a person who was  
7 not using a motor vehicle at the time of an accident is ~~the highest~~ any single limit of  
8 medical payments coverage for any motor vehicle with respect to which the person  
9 is insured.

10 **SECTION 24.** 632.32 (5) (i) of the statutes is renumbered 632.32 (6) (g), and  
11 632.32 (6) (g) (intro.), as renumbered, is amended to read:

12 632.32 (6) (g) (intro.) ~~A~~ No policy may provide that the limits under the policy  
13 for uninsured motorist coverage or underinsured motorist coverage for bodily injury  
14 or death resulting from any one accident shall be reduced by any of the following that  
15 apply:

16 **SECTION 25.** 632.32 (5) (j) of the statutes is renumbered 632.32 (6) (h), and  
17 632.32 (6) (h) (intro.), as renumbered, is amended to read:

18 632.32 (6) (h) (intro.) ~~A~~ No policy may provide that any coverage under the  
19 policy does not apply to a loss resulting from the use of a motor vehicle that meets  
20 all of the following conditions:

21 **SECTION 26. Initial applicability.**

22 (1) The treatment of sections 62.67, 631.43 (3), and 632.32 (title), (2) (a), (am),  
23 (c), (cm), (d), (e), (f), and (g), (4) (intro.), (a) (title), 1., 2., and 3., and (bc), and (5) (f),  
24 (g), (h), (i), and (j) of the statutes, the repeal of section 632.32 (4) (b) (title) of the  
25 statutes, and the renumbering and amendment of section 632.32 (4) (b) of the

1 statutes first apply to motor vehicle insurance policies issued or renewed on the  
2 effective date of this subsection.

3 **SECTION 27. Effective date.**

4 (1) This act takes effect on the first day of the 5th month beginning after  
5 publication.

6 (END)